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c 29 The Collection Agencies Amendment Act, 1974

Ontario

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CHAPTER 29

An Act to amend The Collection Agencies Act

Assented to June 18th, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Clause *aa* of section 1 of *The Collection Agencies Act*, ^{s.1(aa), re-enacted} being chapter 71 of the Revised Statutes of Ontario, 1970, as relettered by the Statutes of Ontario, 1971, chapter 50, section 21, is repealed and the following substituted therefor:

(*aa*) “collection agency” means a person other than a collector who obtains or arranges for payment of money owing to another person, or who holds out to the public that he provides such a service or any person who sells or offers to sell forms or letters represented to be a collection system or scheme.

- (2) The said section 1, as amended by the Statutes of ^{s.1, amended} Ontario, 1971, chapter 50, section 21 and 1972, chapter 1, section 33, is further amended by adding thereto the following clauses:

(*db*) “equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

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(*eb*) “non-resident” means an individual, corporation or trust that is not a resident;

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(*ia*) “resident” means,

- (i) an individual who is a Canadian citizen or has been lawfully admitted to Canada

for permanent residence and who is ordinarily resident in Canada,

(ii) a corporation that is incorporated, formed or organized in Canada and that is controlled directly or indirectly by persons who are residents or by a resident trust, or

(iii) a trust that is established by resident individuals or a resident corporation or one in which resident individuals or corporations hold more than 50 per cent of the beneficial interest.

s. 1,
amended

(3) The said section 1 is further amended by adding thereto the following subsection:

Corporations

(2) For the purposes of subclause ii of clause *ia* of subsection 1, a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if,

(a) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation.

s. 6(1),
amended

2. Subsection 1 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 21, is amended by adding "or" at the end of clause *d* and by adding thereto the following clause:

(e) the applicant fails to comply with section 10 or 11.

s. 22,
renumbered
ss. 10, 11,
enacted

3. The said Act is amended by renumbering section 22 as section 9 and by adding thereto the following sections:

Resident
require-
ments re
individuals

10.—(1) Subject to subsection 2, no individual shall carry on business in Ontario as a collection agency unless,

(a) he is a resident; or

(b) where he is a member of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

(2) An individual who is carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and who on that day is in contravention of subsection 1, may continue to carry on business, subject to the provisions of this Act if,

- (a) his interest or any part thereof is not transferred to or for the benefit of a non-resident; or
- (b) where he is a member of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof.

11.—(1) No corporation shall carry on business in Ontario as a collection agency if,

Idem
Resident
require-
ments re
corporations

- (a) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;
- (b) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident over which he exercises control or direction together with any other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or
- (c) the corporation is not incorporated by or under an Act of Ontario, Canada or any province of Canada.

(2) In calculating the total number of equity shares of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

(3) A corporation that was carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and which on that day is in contravention of subsection 1, may continue to carry on business, subject to the provisions of this Act,

- (a) in the case of a contravention of clause *a* or *b* of subsection 1, if no transfer or equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clause *a* or *b* of subsection 1; or
- (b) in the case of a contravention of clause *c* of subsection 1, until the 1st day of January, 1976 but a corporation incorporated after this Act comes into force and before the 1st day of January, 1976 by or under an Act of Ontario, Canada or a province of Canada may, notwithstanding clauses *a* and *b* of subsection 1, be registered in the place of the first-mentioned corporation if the equity shares of the new corporation or beneficial interest therein including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first-mentioned corporation, but where the new corporation is in contravention of clause *a* or *b* of subsection 1, clause *a* of this subsection applies.

Associated
shareholders

(4) For the purpose of this section, a shareholder shall be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;
- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses *a* to *e* with the same shareholder.

Joint
ownership

(5) For the purposes of this section, where an equity share of the corporation is held jointly and one or more

of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident.

4. Section 39 of the said Act is amended by adding thereto<sup>s. 39,
amended</sup> the following clause:

(ab) exempting persons or classes of persons from this Act or the regulations or any provisions thereof in addition to those exempted under section 2.

5. This Act comes into force on the day it receives Royal<sup>Commence-
ment</sup> Assent.

6. This Act may be cited as *The Collection Agencies Amend-Short title
ment Act, 1974.*

